

From: Walter Lamb [landtrust@ballona.org]
Sent: 7/12/2019 8:19:52 PM
To: Ballona Wetlands [landtrust@ballona.org]
Subject: AB 1511 hearing video and update

Dear GB members,

The Senate Committee on Natural Resources and Water voted 8 - 0 to pass AB 1511 out of committee on Tuesday after some very valuable discussion on the bill. The link below is to the entire hearing. Assemblymember Bloom begins speaking at the 3:04:50 and the vote concludes at the 3:27:10 mark.

<https://www.senate.ca.gov/media/senate-natural-resources-water-committee-20190709/video>

The most notable exchanges from the Land Trust's perspective were:

- 1) several Senators acknowledging our concerns about the substantially diminished capacity of the Commission and making clear that it was not their intent to endorse the current NEP structure by passing this "limited" bill;
- 2) Asm. Bloom's assertion that the Foundation does all of its business in public, which should aid our effort to make that statement true by compelling the Foundation to finally open all of its meetings to the public, as it is required to do by the Bagley-Keene Open Meeting Act, as a private entity meeting the definition of a "state body" under the Act;
- 3) the clear perception created by Tom Ford that he was speaking on behalf of both the Foundation and Commission (i.e. the Santa Monica Bay National Estuary Program "organization"), despite never consulting with, or seeking any feedback from, the NEP Management Committee, EC or WAC before sponsoring this bill. After all the talk of how confusion between the Commission and Foundation had been clarified, it was interesting hear Asm. Bloom respond to a reference to the Executive Director of the Commission by point to Tom and saying "you have the Executive Director here." Confusion about the Commission and Foundation is still rampant, which is why no one can answer simple questions, such as whether NEP staff work at the direction of, and are accountable to, the NEP Management Committee.
- 4) the effort by Tom to attribute the 2014 and 2018 elimination of Commission staff positions first to the 2008/9 recession and then to a 2016 court order that doesn't actually say what he claimed it says. The factual timeline doesn't support Tom's explanations of when and why these agency positions, that had long been filled by the Foundation, were eliminated without any substantive discussion ahead of time by the Commission.
- 5) the doubling down on the narrative that poor paperwork by Tom's predecessor created confusion that "everybody worked for the Commission". This contrived narrative, first put forth in 2015, is easily refutable. A contemporaneous, executed agreement reviewed by US EPA, SWRCB legal counsel, the Foundation Board of Directors and the Commission Governing Board and Executive Committee, and backed by a trove of other business records, will carry more weight in court than the fabricated explanations of someone who was not even aware of the Commission's governing MOU or its MOA with the Foundation at the time he claims to have been correcting "confusion" about the Commission's staffing arrangement with the Foundation.
- 6) the double standard that the Governing Board's local decision-making power must be respected by the Legislature when the Foundation wants to delay or block a change it doesn't like, but which the Foundation has repeatedly bypassed on numerous structural and operational issues, such as the elimination of staff positions, the elimination of the Commission's power to appoint members to the Foundation's board, the replacement of

the Commission's name and logo with the Foundation's name and logo on various documents and web sites, etc..

As always, these structural and governance issues are important to us because the Commission was created to have a substantial, albeit non-regulatory role on projects such as the Ballona Wetlands Restoration Project and the abdication of that role has left a vacuum that has measurably harmed the planning process of that project. The public Commission has gone missing on policy issues such as interim access and stewardship, best practices for invasive species management, restoration of abandoned paved areas, etc.

I understand that until our legal complaint is finally filed there will be little interest in exploring these issues, which is unfortunate. We hope to file our complaint soon and hope that finally leads to long overdue discussion of topics that have been repeatedly kicked down the road.

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